

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SHAWN HOLBROOK, on behalf of)	
himself and all others similarly situated)	
)	Case No. 08 CV 385
Plaintiff,)	
)	Judge St. Eve
v.)	
)	Magistrate Judge Keys
MARRIOTT INTERNATIONAL, INC.,)	
)	
Defendant.)	

DEFENDANT’S MOTION FOR LEAVE TO FILE AN AMENDED ANSWER

Defendant Marriott International, Inc. (“Defendant”), pursuant to Fed R. Civ. P. 15, hereby submits this Motion for Leave to File an Amended Answer to Plaintiff Shawn Holbrook’s (“Plaintiff”) Complaint in this matter. In support of its motion, Defendant states as follows:

1. Plaintiff brings this lawsuit under the Fair Labor Standards Act, 29 U.S.C. §§ 201-262 (“FLSA”), the Illinois Minimum Wage Law, 820 ILCS 105, the Illinois Wage Payment and Collection Act, 820 ILCS 115, and a breach of contract theory, alleging that Defendant failed to pay him the appropriate regular and overtime rate of pay under his “agreement.” Defendant denies all of Plaintiff’s substantive allegations and denies that it acted unlawfully in any way.

2. Plaintiff filed the Complaint on December 5, 2007 in the Circuit Court of Cook County, which Defendant removed to this Court on January 17, 2008. Defendant then filed its timely Answer on January 24, 2008.

3. Thereafter, upon further investigation of Plaintiff’s claims, Defendant believes that counts I-IV of Plaintiff’s Complaint, and at the very least count IV, are preempted by the FLSA. *See Anderson v. Sara Lee Corp.*, 508 F.3d 181 (4th Cir. 2007).

4. Accordingly, justice requires that the Court permit Defendant to amend its Answer to the Complaint to include an affirmative defense regarding preemption.

5. Because discovery is still open and no depositions have been taken in this case, Plaintiff will not be unfairly prejudiced if Defendant is allowed to amend its Answer to add an affirmative defense.

6. Defendant brings this motion in good faith and not for purposes of delay.

Therefore, for the reasons stated above, Defendant requests that the Court grant this motion and permit it to amend its Answer in this case. A copy of the proposed Amended Answer is attached to this motion as Exhibit A.

DATED: March 5, 2008

Respectfully submitted,

By: /s/ Colin M. Connor
One of Their Attorneys

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CERTIFICATE OF SERVICE

I, Colin M. Connor an attorney, do hereby certify that I have caused a true and correct copy of the foregoing *Defendant's Motion to File An Amended Answer* to be electronically filed with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following on this 5th day of March, 2008:

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/s/ Colin M. Connor